

HCR164

Measure Title:

REQUESTING THE AUDITOR TO CONDUCT A STUDY ON THE IMPACT OF ACT 226, SESSION LAWS OF HAWAII 2007, ON NURSE AIDES WHO ARE EMPLOYED IN STATE-CERTIFIED OR STATE-LICENSED HEALTH CARE SETTINGS TO PROVIDE A BASIS FOR THE LEGISLATURE TO DECIDE WHETHER TO AMEND ACT 226, SESSION LAWS OF HAWAII 2007.

Report Title:

Requesting the Auditor to Study the Impact of Act 226, SLH 2007

Description:

Package:

None

Companion:

Introducer(s):

LEE, GREEN, MIZUNO

Current Referral:

HTH/CPH, WAM



LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

LAWRENCE M. REIFURTH
DIRECTOR

RONALD BOYER
DEPUTY DIRECTOR

**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON HEALTH

AND

TO THE SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND
AFFORDABLE HOUSING

TWENTY-FOURTH LEGISLATURE
REGULAR SESSION of 2008

Friday, April 18, 2008
1:15 p.m.

**TESTIMONY ON HOUSE CONCURRENT RESOLUTION NO. 164, REQUESTING
THE AUDITOR TO CONDUCT A STUDY ON THE IMPACT OF ACT 226, SESSION
LAWS OF HAWAII 2007, ON NURSE AIDES WHO ARE EMPLOYED IN STATE-
CERTIFIED OR STATE-LICENSED HEALTH CARE SETTINGS TO PROVIDE A
BASIS FOR THE LEGISLATURE TO DECIDE WHETHER TO AMEND ACT 226,
SESSION LAWS OF HAWAII 2007.**

TO THE HONORABLE DAVID Y. IGE, CHAIR,
TO THE HONORABLE RUSSELL S. KOKUBUN, CHAIR,
AND MEMBERS OF THE COMMITTEES:

My name is Kathleen Yokouchi, Executive Officer of the Professional and
Vocational Licensing Division, Department of Commerce and Consumer Affairs
("Department"). The Department appreciates the opportunity to testify in support of
House Concurrent Resolution No. 164, which is the companion measure to Senate

Concurrent Resolution No. 103. On March 24, 2008, Senate Concurrent Resolution 103 passed out of your Committees unamended.

H.C.R. No. 164 requests the Auditor to conduct a study on the impact of Act 226, Session Laws of Hawaii 2007 ("Act 226") on nurse aides who are employed in state-certified or state-licensed ("SC/SL") health care settings and to provide a basis for the Legislature to decide whether to amend Act 226.

Act 226 provided for nurse aides who work in SC/SL health care settings to be certified if they met requirements that are comparable to nurse aides who are employed by Medicare/Medicaid certified facilities. The intent was to safeguard consumer safety.

Upon adoption of Act 226, the departments of Commerce and Consumer Affairs; Health; and Human Services immediately worked together with the American Red Cross to implement the law. Although certification for SC/SL health care setting employed nurse aides is not mandatory, the overwhelming majority of the nurse aides have opted to be certified. However, the cost for certification and recertification, particularly for the proficiency evaluation, quickly became – and remains – a point of contention for these nurse aides.

Medicare and Medicaid absorb the certification and recertification costs for nurse aides who work in their facilities. However, nurse aides who work in SC/SL health care settings are responsible for these costs.

H.C.R. No. 164 requires the Auditor to seek the stakeholders' views on the problem and study the possibility of other sources of funding. Therefore, the Department stands in support of this measure.

Thank you for the opportunity to provide testimony.



SENATE COMMITTEE ON HEALTH

Senator David Ige, Chair

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND
AFFORDABLE HOUSING

Senator Russell Kokubun, Chair

Conference Room 016

April 18, 2008 at 1:15 p.m.

Testimony in support of HCR 164.

I am Coral Andrews, Vice President of the Healthcare Association of Hawaii, which represents the entire spectrum of health care, including acute care hospitals, two-thirds of the long term care beds in Hawaii, as well as home care and hospice providers. Thank you for this opportunity to testify in support of HCR 164, which requests the Auditor to study the impact of Act 226, SLH 2007.

Act 226 sought to provide an option for the certification and re-certification of nurse aides employed in licensed or certified health care settings outside of long term care (addressed under federal regulation). This was a positive step that supported the professional growth and continued certification of nurse aides in Hawaii.

However, since the implementation of Act 226, our members have identified challenges in implementing the provisions of Act 226 within their health care settings. An example of an implementation challenge is a nurse aide who is employed by a health system organization and is utilized as a "float" between acute and long term care services. Since there are two different standards of certification (one of those employed in long term care and another for those outside of long term care), the health system organization must ensure that they comply with the higher federal requirement or state certification standard even if the CNA only "floats" between acute and long term care for one day. From a staffing perspective, it reduces the flexibility of employers to utilize their nurse aides across disciplines as they have done in the past.

In addition, nurse aides may be hired by agencies that provide temporary staffing to licensed or certified health care settings. However, the agency for which they are employed is not a licensed or certified health care setting which by the provisions of Act 226 prevents them from qualifying as a "signing authority" to verify their competency in the workplace. We are also concerned about personal hardship stories reported by nurse aides who cannot afford the cost of certification, which has been reported to be as high as \$1000.

For the foregoing reasons, the Healthcare Association of Hawaii supports HCR 164.



April 18, 2008

To: Chairs David Ige and Russell Kokubun, Members of the Senate Committees on Health and Commerce, Consumer Protection & Housing

From: Bob Ogawa, President, Hawaii Long Term Care Association

Re: H.C.R. 164, Requesting the auditor to conduct a study on the impact of Act 226, Session Laws of Hawaii 2007, on nurse aides who are employed in State-certified or State-licensed health care settings to provide a basis for the Legislature to decide whether to amend Act 226, Session Laws of Hawaii 2007.

The Hawaii Long Term Care Association (HLTCA) strongly supports H.C.R. 164.

Last year, as the result of a truly gratifying cooperative effort among the Departments of Health, Human Services, and Commerce & Consumer Affairs, along with the Healthcare Association of Hawaii, the Coalition of Care Home Administrators, the Red Cross, the HLTCA and the Legislature, a very significant health policy measure regarding certified nurse aides (CNAs) was passed and became Act 226. It was a signal example of public-private partnership and collaboration.

As is manytimes the case, however, implementation does not come without its glitches. While everyone continues to support the consumer safety and professional accreditation benefits of the new certified nurse aide law, concerns have arisen regarding the costs involved in the certification and recertification processes.

Federal statute requires that no charge shall be imposed for CNAs working in Medicare-/medicaid-certified nursing facilities. However, the same is not true for those in purely State-licensed or State-certified health care settings -- like assisted living facilities, adult residential care homes, adult foster care homes, home health agencies and so forth. Providers throughout the health care spectrum want the assurance of credentialed proficiency, and all CNAs and would-be CNAs want official endorsement of their skills. In some instances, though, financial considerations can be an impediment to achieving those worthy goals.

Therefore, we believe that a study of possible funding sources for certification and recertification of CNAs in State-licensed/-certified health care settings is essential to fully realizing the purpose of Act 226 and ask your approval of this measure.